

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DIONTAE JOHAN DUNCAN,

Plaintiff,

v.

CALIFORNIA HEALTHCARE
RECEIVERSHIP CORP., et al.,

Defendants.

Case No. 1:20-cv-01288-AWI-SKO (PC)

**FINDINGS AND RECOMMENDATIONS
TO DENY PLAINTIFF'S MOTIONS FOR
TEMPORARY RESTRAINING ORDERS
AS MOOT**

(Docs. 28, 30)

Before the Court are Plaintiff's fourth and fifth motions for a temporary restraining order (TRO).¹ (Docs. 28, 30.) In both motions, Plaintiff states that prison officials at Kern Valley State Prison (KVSP) placed him administrative segregation, and he requests a court order directing the officials to return him to the general population and place him single-cell housing. (*See id.*) After filing his motions, Plaintiff filed a notice that he had been transferred to Substance Abuse Treatment Facility and State Prison, Corcoran (CSATF). (Doc. 32.) Plaintiff's motions are therefore moot.

A claim is moot if the applicable "issues are no longer live or the parties lack a legally cognizable interest in the outcome." *Sample v. Johnson*, 771 F.2d 1335, 1338 (9th Cir. 1985) (citation omitted). "[I]f an inmate is seeking injunctive relief with respect to conditions of

¹ The Court denied Plaintiff's first, second, and third motions for a TRO on December 3, 2020, and June 30, 2021. (Docs. 24, 33.)

1 confinement, the prisoner's transfer to another prison renders the request for injunctive relief
2 moot, unless there is some evidence of an expectation of being transferred back." *Rodriguez v.*
3 *Moore*, No. 2:19-cv-00226-MCE-DMC, 2019 WL 2284892, at *1 (E.D. Cal. 2019), *report and*
4 *recommendation adopted*, 2019 WL 3714510 (E.D. Cal. 2019) (citations omitted); *see also*
5 *Andrews v. Cervantes*, 493 F.3d 1047, 1053 n.5 (9th Cir. 2007).

6 Plaintiff's requests to be released from administrative segregation at Kern Valley State
7 Prison were therefore mooted when he transferred to CSATF; there is no evidence that he will be
8 transferred back to KVSP. *See Quezada v. Nepomuceno*, No. 1:20-cv-01351-NONE-GSA, 2021
9 WL 228872, at *1 (E.D. Cal. 2021). Accordingly, the Court RECOMMENDS that Plaintiff's
10 motions for temporary restraining orders (Docs. 28, 30) be DENIED as moot.

11 These Findings and Recommendations will be submitted to the district judge assigned to
12 this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 21 days** of the date of service of these
13 Findings and Recommendations, Plaintiff may file written objections with the Court. The
14 document should be captioned, "Objections to Magistrate Judge's Findings and
15 Recommendations." Failure to file objections within the specified time may result in waiver of
16 rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*
17 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18
19 IT IS SO ORDERED.

20 Dated: **December 3, 2021**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE